

REMARKS

The Final Office Action mailed April 10, 2009, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

CLAIM STATUS

Claims 1-19 are pending in this Application with claims 4-8 and 15-19 being withdrawn. By this Amendment, Applicants have amended claims 1-3, 9-14. Claims 4-8 and 15-19 have been cancelled without prejudice to filling a divisional there upon.

Claim Rejections Under 35 USC § 102(b)/103(a)

The Office maintains its rejections of the claims as anticipated by or in the alternative, as obvious over Machtold et al., Schafer et al. and Metz et al., for the reasons previously advanced during prosecution of this application. On Page 3, Paragraph 6 of the Office Action, the Office states as follows:

Applicant's arguments filed regarding Machtold, Schafer and Metz have been fully considered but they are not persuasive. The examiner acknowledges applicant's declaration dated March 13, 2009. The examiner asserts that applicant's claims are drawn to a compound and not a composition. The Examiner asserts that the compound claim simply requires the existence of the compound which is a one-component entity. Compounds by definition in the chemical arts are a single chemical species. However, Applicant's claims as currently written are directed to a compound of formula (1) and less than 2000 ppm aniline, which would not read on a compound (single

component) but a composition (two components), although less than 2000 ppm of aniline would encompass embodiments wherein aniline is not present. The examiner is unclear as to how a compound can contain a compound of formula (1) and an additional ingredient, aniline. The examiner argues that a compound claim, by definition, requires the teaching or suggestion of the actual compound. The examiner argues that since the prior art, Machtold, Schafer and Metz, clearly disclose and teach a compound of formula (1), the compound limitation of claim 1 is inherently met. Furthermore, Schafer et al. clearly teach the aniline is distilled off in vacuo (column 3, lines 70-75). Accordingly, the rejections as relied upon above are maintained.

With regard to the Office's position that the claims constitute a composition, Applicants amended the current claims to read on a composition.

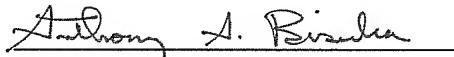
With regard to the Office's position that "Schafer et al. clearly teach the aniline is distilled off in vacuo (column 3, lines 70-75)," attached hereto is a second Declaration under 35 CFR § 1.132 by Dr. Hans-Tobias Macholdt wherein it is presented that the method of Schafer et al. using in vacuo distillation could not achieve an aniline level of less than 2000 ppm.

With this declaration, the amendment to the claims reciting a composition and Applicants' reliance upon previous arguments it is respectfully contended the 35 USC § 102/103 rejections have been overcome. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejections.

Attorney's Docket: 2002DE142
Serial No.: 10/533,999
Group: 1796

In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,


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